



DEPARTMENT OF THE TREASURY

Internal Revenue Service
TE/GE EO Examinations
1100 Commerce Street
Dallas, TX 75424

501-03-00

**TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION**

Date: February 17, 2010

Release Number: **201021032**

Release Date: 5/28/10

LEGEND

ORG = Organization name

Address = address XX = Date

Person to Contact:

Identification Number:

Contact Telephone Number:

In Reply Refer to: TE/GE Review Staff

EIN:

ORG

ADDRESS

LAST DATE FOR FILING A PETITION
WITH THE TAX COURT: May 18, 20XX

CERTIFIED MAIL – Return Receipt Requested

Dear

This is a Final Adverse Determination Letter as to your exempt status under section 501(c)(3) of the Internal Revenue Code. Your exemption from Federal income tax under section 501(c)(3) of the code is hereby revoked effective January 1, 20XX.

Our adverse determination was made for the following reasons:

You have not demonstrated that you are operated exclusively for charitable, educational, or other exempt purposes within the meaning of I.R.C. section 501(c)(3). Organizations described in I.R.C. section 501(c)(3) and exempt under section 501(a) must be organized and operated exclusively for an exempt purposes. You have provided no information regarding your receipts, expenditures or activities. You have not established that you have operated exclusively for an exempt purpose.

Contributions to your organization are no longer deductible under section 170 of the Internal Revenue Code.

You are required to file Federal income tax returns on Form 1120. These returns should be filed with the appropriate Service Center for the year ending December 31, 20XX and for all years thereafter.

Processing of income tax returns and assessment of any taxes due will not be delayed should a petition for declaratory judgment be filed under section 7428 of the Internal Revenue Code.

If you decide to contest this determination in court, you must initiate a suit for declaratory judgment in the United States Tax Court, the United States Claim Court or the District

Court of the United States for the District of Columbia before the 91st day after the date this determination was mailed to you. Contact the clerk of the appropriate court for the rules for initiating suits for declaratory judgment.

You also have the right to contact the office of the Taxpayer Advocate. However, you should first contact the person whose name and telephone number are shown above since this person can access your tax information and can help you get answers.

You can call and ask for Taxpayer Advocate assistance. Or you can contact the Taxpayer Advocate from the site where the tax deficiency was determined by calling, Tel: or write :

Taxpayer Advocate assistance cannot be used as a substitute for established IRS procedures, formal appeals processes, etc. The Taxpayer Advocate is not able to reverse legal or technically correct tax determinations, nor extend the time fixed by law that you have to file a petition in the United States Tax Court. The Taxpayer Advocate can, however, see that a tax matter that may not have been resolved through normal channels gets prompt and proper handling.

We will notify the appropriate State Officials of this action, as required by section 6104(c) of the Internal Revenue Code.

If you have any questions, please contact the person whose name and telephone number are shown in the heading of this letter.

Sincerely yours,

Douglas H. Shulman
Commissioner
By

Nanette M. Downing
Acting Director, EO Examinations

Enclosures:

Publication 892
Publication 1546
Notice 437

Cc:



DEPARTMENT OF THE TREASURY

INTERNAL REVENUE SERVICE

TE/GE EO Examinations

4330 Watt Avenue, SA-6209 HG

Sacramento, CA 95821

TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION

LEGEND

ORG = Organization name

Address = address

XX = Date

ORG
ADDRESS

Taxpayer Identification Number:
Form:
Tax Year(s) Ended
Person to Contact/ID Number:
Contact Numbers:
Telephone:
Fax:

CERTIFIED MAIL – RETURN RECEIPT REQUESTED

Dear

We have enclosed a copy of our report of examination explaining why we believe revocation of your exempt status under section 501(c)(3) of the Internal Revenue Code is necessary.

If you accept our findings, please sign and return the enclosed Form 6018, Consent to Proposed Action - Section 7428. If you have already given us a signed Form 6018, you need not repeat this process. We will issue a final revocation letter.

If you do not agree with our proposed revocation, you must submit to us a written request for Appeals Office consideration within 30 days from the date of this letter to protest our decision. Your protest should include a statement of the facts, the applicable law, and arguments in support of your position.

An Appeals Officer will review your case. The Appeals Office is independent of the Director, EO Examinations. The Appeals Office resolves most disputes informally and promptly. The enclosed Publication 3498, The Examination Process, and Publication 892, Exempt Organization Appeal Procedures for Unagreed Issues, explain how to appeal an Internal Revenue Service (IRS) decision. Publication 3498 also includes information on your rights as a taxpayer and the IRS collection process.

You may also request that we refer this matter for technical advice as explained in Publication 892. If we issue a determination letter to you based on technical advice, no further administrative appeal is available to you within the IRS regarding the issue that

was the subject of the technical advice.

If we do not hear from you within 30 days from the date of this letter, we will process your case based on the recommendations shown in the report of examination. If you do not protest this proposed determination within 30 days from the date of this letter, the IRS will consider it to be a failure to exhaust your available administrative remedies. Section 7428(b)(2) of the Code provides, in part: "A declaratory judgment or decree under this section shall not be issued in any proceeding unless the Tax Court, the Claims Court, or the District Court of the United States for the District of Columbia determines that the organization involved has exhausted its administrative remedies within the Internal Revenue Service." We will then issue a final revocation letter.

You have the right to contact the office of the Taxpayer Advocate. Taxpayer Advocate assistance is not a substitute for established IRS procedures, such as the formal appeals process. The Taxpayer Advocate cannot reverse a legally correct tax determination, or extend the time fixed by law that you have to file a petition in a United States Court. The Taxpayer Advocate can, however, see that a tax matter that may not have been resolved through normal channels gets prompt and proper handling. You may call toll-free 1-877-777-4778 and ask for Taxpayer Advocate Assistance. If you prefer, you may contact your local Taxpayer Advocate at:

If you have any questions, please call the contact person at the telephone number shown in the heading of this letter. If you write, please provide a telephone number and the most convenient time to call if we need to contact you.

Thank you for your cooperation.

Sincerely,

Sunita Lough
Director, EO Examinations

Enclosures:
Publication 892
Publication 3498
Report of Examination
Form 6018

Form 886-A	Department of the Treasury - Internal Revenue Service	Schedule No. or Exhibit 1 of 4
Explanation of Items		
Name of Taxpayer ORG	Tax identification number	Year/Period Ended 20XX12

LEGEND

ORG = Organization name XX = Date Address = address City = city
State = state President = president

Issue:

Should the tax-exempt status, under Internal Revenue Code section 501(c)(3), of ORG be revoked for failing to demonstrate to the Service that they are properly operating as an organization exempt under the aforementioned code section?

Facts:

ORG was incorporated October 16, 20XX. Its specific purpose is to educate the public regarding the drum corps activity and promote the drum corps activity within the community. ORG received exemption from Federal income tax under section 501(c)(3) of the Internal Revenue Code on May 7, 20XX. Organization's Advance Ruling ended January 31, 20XX.

Organization has a Form 990 filing requirement; however, the organization did not file Forms 990 since December 31, 20XX.

On 01/27/20XX, revenue agent mailed an audit notification letter to ORG Address, City, State. The aforementioned letter was returned to revenue agent as "Attempted Not Known Unable to Forward" on 02/09/20XX.

On 2/10/20XX, revenue agent prepared an Address Information Request for ORG's President, President, at Address, City, State. Post Office responded respectively, "Mail is Delivered to Address Given", on 2/23/20XX

On 02/24/20XX, revenue agent resent audit notification letter to ORG's President, President, at Address, City, State. The organization did not respond.

On 03/17/20XX, revenue agent sent the follow-up letter to the President, President, at Address, City, State and informed the organization that if the organization did not respond By March 31, 20XX we will proceed with the revocation.

On 03/24/20XX, the President, President, called and informed revenue agent that the organization was no longer active since 20XX due to insufficient fund and all the musical equipments were repossessed by the vendors. Further, he will send the information to revenue agent within a week. Also, President indicated that he did not receive the audit notification letter dated February, 24, 20XX and ask revenue agent to send him the letter again.

Form 886-A	Department of the Treasury - Internal Revenue Service Explanation of Items	Schedule No. or Exhibit 2 of 4
Name of Taxpayer ORG	Tax identification number	Year/Period Ended 20XX12

On 03/25/20XX, revenue agent resent the audit notification letter dated February, 24, 20XX to President.

On 04/01/20XX, revenue agent called President, and President indicated that he received the audit notification letter dated February, 24, 20XX and Form 4564, Information Document Request. President stated that he was trying to gathering the information and revenue agent will receive the information by April 6, 20XX.

On 04/08/20XX, President did not provide the information, and revenue agent called and left message for President to follow-up with the requested information.

On 04/21/XX, revenue agent called and left message for President.

On 05/11/XX, revenue agent sent the letter regarding the conversations with President to Address, City, State via certified mail and regular mail.

On 06/09/20XX, the aforementioned letter that sent via certified mail was returned "Unclaimed"; however, regular mail for that letter was not return.

On 07/31/20XX, revenue agent prepared an Address Information Request for ORG new address at Address, City, State. Post Office responded respectively, "Not Known At Address Given", on 08/11/20XX.

Accurint and IDRS research resulted in current address information on organization's President, President as Address, City, State and organization's new address as Address, City, State.

All attempts to contact ORG and its President, President were unsuccessful.

Law:

Internal Revenue Code section 501(c)(3) includes corporations, and any community chest, fund, or foundation, organized and **operated** exclusively for religious, charitable, scientific, testing for public safety, literary, or educational purposes, or to foster national or international amateur sports competition (but only if no part of its activities involve the provision of athletic facilities or equipment), or for the prevention of cruelty to children or animals, no part of the net earnings of which inures to the benefit of any private shareholder or individual, no substantial part of the activities of which is carrying on propaganda, or otherwise attempting, to influence legislation (except as otherwise provided in subsection (h)), and which does not participate in, or intervene in (including the publishing or distributing of statements), any political campaign on behalf of (or in opposition to) any candidate for public office.

Form 886-A	Department of the Treasury - Internal Revenue Service Explanation of Items	Schedule No. or Exhibit 3 of 4
Name of Taxpayer ORG	Tax identification number	Year/Period Ended 20XX12

Regulations section 1.501(c)(3)-1(c)(1) states that an organization will be regarded as "operated exclusively" for one or more exempt purposes only if it engages primarily in activities which accomplish one or more of such exempt purposes specified in section 501(c)(3). An organization will not be so regarded if more than an insubstantial part of its activities is not in furtherance of an exempt purpose.

Regulations section 1.6001-1(c) states that every organization which is exempt from tax under section 501(a) shall keep such permanent books of account or records, including inventories, as are sufficient to show specifically the items of gross income, receipts and disbursements. Such organizations shall also keep such books and records as are required to substantiate the information required by section 6033.

Regulations section 1.6001-1(e) states that the books or records required by this section shall be kept at all times available for inspection by authorized internal revenue officers or employees, and shall be retained so long as the contents thereof may become material in the administration of any internal revenue law

Regulations section 1.6033-2(i)(2) states that every organization which is exempt from tax, whether or not it is required to file an annual information return, shall submit such additional information as may be required by the Internal Revenue Service **for the purpose of inquiring into its exempt status** and administering the provisions of subchapter F (section 501 and following), chapter 1 of subtitle A of the Code, section 6033, and chapter 42 of subtitle D of the Code.

Government's Position:

In order to qualify for and maintain exemption from income tax per Internal Revenue Code section 501(c)(3), it must be demonstrated that the organization is operated for any of the exempt purposes set forth in the aforementioned section. As documented in the "facts" section of this report, ORG and its officer(s) could not be contacted after 4/1/20XX. Thus, an audit of the organization's books and records could not be conducted by the agent. As a result, the organization failed to demonstrate to the Secretary that it is operated for any if the exempt purposes as described in Internal Revenue Code section 501(c)(3).

Per Regulations section 1.6033-2(i)(2), in order to demonstrate that an organization should be exempt from taxation, adequate and proper records must be maintained and provided to the Internal Revenue Service. The organization failed to provide a means to be contacted and thus, failed to make available to the Service, the records necessary to demonstrate that it operates for the furtherance of some exempt activity as set forth in section 501(c)(3) of the Internal Revenue Code.

Taxpayer's Position:

Form 886-A	Department of the Treasury - Internal Revenue Service Explanation of Items	Schedule No. or Exhibit 4 of 4
Name of Taxpayer ORG	Tax identification number	Year/Period Ended 20XX12

Numerous attempts were made, but the officer of ORG could not be successfully contacted by the Internal Revenue Service. Thus, an opinion/position from ORG could not be obtained.

Conclusion:

The tax-exempt status of ORG under Internal Revenue Code section 501(c) (3) must be **revoked** effective January 1, 20XX. Thus, contributions to ORG are no longer tax deductible.